THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte ALEXANDER LEVRAN, JOSEPH M. NOWOSIELSKI,
GIAO M. TON-THAT, RAMAMOORTHY RAJAGOPALAN,
HENRI MABBOUX, AND DAVID MAZUR

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Appeal No. 96-1560
Application 08/084,366[1]

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ON BRIEF

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Before HAIRSTON, MARTIN, and JERRY SMITH, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

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[1] Application for patent filed June 29, 1993. According to appellants, this application is a continuation-in-part of Application 07/935,041, filed August 25, 1992, now Patent No. 5,414,600; and a continuation-in-part of Application 07/951,208, filed September 25, 1992, now Patent No. 5,592,137.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 26-54, which constitute all the claims remaining in the application.

The disclosed invention pertains to a power conversion and distribution system that is readily adaptable for use on a wide variety of applications including those having single and polyphase input voltages and providing both AC and DC output voltages.

Representative claim 26 is reproduced as follows:

26. A high efficiency power conversion system comprising:

a. at least two system input terminals connected to an external alternating current (AC) power source;

b. impedance means having input, output, and neutral terminals, said input electrically connected to said system input terminals, said neutral electrically connected to a ground plane;

c. alternating current to direct current conversion means having at least two input terminals and at least two output terminals, said input terminals electrically connected to said output terminals of said impedance means, said alternating current to direct current conversion means converting AC power supplied by the external alternating current power source into a DC output;

d. at least one power conversion means having at least two input terminals and at least two output terminals, said input terminals electrically connected to said output terminals of said alternating current to direct current converter means, said power conversion means converting the DC output of said alternating current to direct current conversion means to at least one predetermined voltage, said predetermined voltage selectable as a DC voltage or an AC voltage having a predetermined frequency, [;] and

e. a storage backup coupled to said DC output for storing energy supplied from said DC output and for supplying energy to said DC output when said external AC power source is below a predetermined level.

The examiner relies on the following references:

Powell et al. (Powell)	4,719,550	Jan. 12, 1988
Ertz, III (Ertz)	4,751,398	June 14, 1988
Kirchberg, Jr. et al. (Kirchberg)	4,977,492	Dec. 11, 1990

Claims 26-46 and 48-54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Powell or Ertz. Claim 47 stands rejected under 35 U.S.C. § 103 as being unpatentable over the teachings of Powell or Ertz in view of Kirchberg.

Rather than repeat the arguments of appellants or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into

consideration, in reaching our decision, the appellants' arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the individual disclosures of Powell and Ertz do not fully meet the invention as recited in claims 26-46 and 48-54. We are also of the view that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claim 47. Accordingly, we reverse.

We consider first the rejection of claims 26-46 and 48-54 under 35 U.S.C. § 102(b) as being anticipated by the disclosures of Powell or Ertz. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The final rejection basically makes a blanket anticipation rejection of claims 26-46 and 48-54 on Powell or Ertz without any meaningful analysis. That is, the final rejection does not indicate how the examiner is reading the claims on the disclosures of Powell and

Ertz. The final rejection also does not offer any separate analysis of the many claims subject to this rejection. The answer simply incorporates the final rejection for the explanation of this rejection [answer, page 3]. The first time that the examiner actually makes a correspondence between elements of the claims and the disclosures of Powell and Ertz occurs in the response to arguments section of the answer. There the examiner reads selected limitations from the claims on the disclosures of Powell and Ertz. It is noted that the examiner's correspondence of elements considers only selected language of claim 1 and does not consider all the language of claim 1. It is also noted that there is still no indication of how the examiner is reading the dependent claims on the disclosures of Powell and Ertz.

Appellants have nominally indicated that for purposes of this rejection the claims do not stand or fall together because they are of different scope as "discussed below under the 'Argument section'" [brief, page 9]. In the arguments section of the brief, however, appellants make no comments at all with respect to the dependent claims and they argue the three independent claims 26, 34 and 49 as a single group. Thus, appellants have made no arguments in support of their contention that the claims do not stand or fall together. Accordingly, it is appropriate for us to treat the claims subject to this rejection as standing or falling together as a single group. Note In re King,

801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

With respect to independent claims 26, 34 and 49, and notwithstanding the many limitations of the claims ignored by the examiner, appellants make only a single relevant argument in support of their position that Powell and Ertz do not anticipate the invention of the claims. Appellants make several arguments which compare the disclosure of their invention with Powell and Ertz, but the disclosed invention is not the measure of patentability. The only relevant argument made by appellants is that neither Powell nor Ertz supports the claimed recitation that the power conversion means (claim 26) outputs a predetermined voltage which is selectable as a DC voltage or an AC voltage, or the plurality of AC converters (claims 34 and 49) are selectively operable as AC to DC or AC to AC converters [brief, pages 13-14]. Appellants argue that the outputs in Powell and Ertz are AC signals only and are not selectable to be AC or DC.

The examiner argues that because claim 26 refers to a DC voltage or an AC voltage, the claim reads on the Powell and Ertz disclosures of an AC voltage. Although the examiner is correct that alternative language can be met by prior art showing any of the alternative choices, the examiner has ignored an important condition on the alternatives set forth in independent claims 26, 34 and 49. Each of independent claims 26, 34 and 49 recites that at least one element of the combination is selectively operable in order to

produce two different outputs from the element. The corresponding power conversion elements of Powell and Ertz produce only AC outputs and cannot selectively produce DC outputs as recited in the claims. Thus, we agree with appellants that in order to anticipate the invention of claims 26, 34 and 49, the structure of the prior art must have the selective capability recited in the claims. Since neither Powell nor Ertz discloses structure with this capability, the invention of claims 26-46 and 48-54 is not anticipated by these references within the meaning of 35 U.S.C. § 102.

We now consider the rejection of claim 47 under 35 U.S.C. § 103 as being unpatentable over the teachings of Powell or Ertz in view of Kirchberg. Claim 47 depends from independent claim 34 and recites a microprocessor for controlling the output from the AC converter. Kirchberg is cited merely for the teaching of a microprocessor controlled voltage system. Kirchberg does not make up for the deficiencies of Powell and Ertz discussed above. Since the examiner has not addressed the obviousness of the selectively operable feature of the claimed invention, the examiner has failed to establish a prima facie case for the obviousness of claim 47. Accordingly, we do not sustain the rejection of claim 47.

In summary, we have not sustained any of the examiner's rejections of the claims under 35 U.S.C. §§ 102 or 103. Therefore, the decision of the examiner rejecting claims 26-54 is reversed.

REVERSED

KENNETH W. HAIRSTON Administrative Patent Judge	)
JOHN C. MARTIN Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
JERRY SMITH Administrative Patent Judge	)

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